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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,761	08/31/2001	Kevin McCarthy	004770.00783	4282
22907	7590	01/30/2008	EXAMINER	
BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			RICHER, AARON M	
		ART UNIT		PAPER NUMBER
		2628		
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		01/30/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/942,761	MCCARTHY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aaron M. Richer	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 05 December 2007.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1,2,4-11,33,34,36-39 and 46-53 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,2,4-11,33,34,36-39 and 46-53 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-2, 4-11, 33-39, and 46-53 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 6, 7, 11, and 47 are rejected under 35 U.S.C. 102(e) as being anticipated by Deo (U.S. Patent 5,973,612).

4. As to claim 1, Deo discloses a method comprising:

receiving at a communication terminal via a communication channel a message including a group of terminal operating characteristics (col. 2, lines 29-47; col. 10, lines 50-57; col. 13, lines 28-49; a sender specifies characteristics associated with how a terminal should alert a user to an incoming page);

storing information corresponding to the group of terminal operating characteristics in the communication terminal (col. 12, lines 1-67; information corresponding to received terminal operating characteristics is stored in variables such as Object.NotifyMask.Visual, Object.NotifyMask.AudioIndex);

identifying one or more user profiles stored on the communication terminal, wherein each of the user profiles corresponds to a set of user preferences and settings that control the operation of the communication terminal (col. 2, lines 29-47; col. 10, lines 50-57; col. 11, lines 14-18; col. 11, line 64-col. 12, line 15; a user sets up profiles that determine how a terminal should operate when certain objects are received);

associating the group of terminal operating characteristics with a first user selectable profile on the communication terminal (col. 10, lines 50-57; col. 11, lines 14-18; col. 11, line 64-col. 12, line 15; the incoming object is associated with a folder that describes the incoming object; the incoming characteristics are compared with a user-selected notification profile, reading on an association);

and configuring the communication terminal to operate according to the received group of terminal operating characteristics in response to a selection of the first user profile (col. 14, lines 6-12; a user may set up a profile to allow the received operating characteristics to control the device).

5. As to claim 2, Deo discloses a method wherein the group of terminal operating characteristics includes a ringing tone and at least one graphical picture (col. 2, lines 48-56; audible alarm signals and melodies read on ringing tones, while a flashing indicator reads on a graphical picture).

6. As to claim 6, Deo discloses a method wherein the message is received from a remote server providing promotional content (col. 10, line 64-col. 11, line 5; a remote provider automatically sends information regarding stock events; given that the term "promotional content" is very broad, it can be read as any

event that promotes a product, and in this case, it is stock that is being promoted).

7. As to claim 7, Deo discloses a method wherein the message is received from a remote server providing event driven content (col. 10, line 64-col. 11, line 5; a remote provider automatically sends information regarding stock events).

8. As to claim 11, Deo discloses a method wherein the message includes a profile name label for the group of terminal operating characteristics (col. 8, lines 27-50; each group of characteristics has an associated "cap code" that labels the type of data being sent).

9. As to claim 47, Deo discloses a method comprising:

receiving at the communication terminal user input selecting the user-selectable profile and configuring the communication terminal to operate according to the terminal operating characteristics of the selected profile (col. 8, lines 51-56; col. 11, lines 15-63; col. 14, lines 6-12; each folder is set up using user input wherein a user can set whether or not to associate received terminal operating characteristics with the device or not).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 4, 8, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deo in view of Smith (U.S. Patent 6,226,367).

13. As to claim 4, Deo does not disclose a method wherein the group of terminal operating characteristics includes at least one of a card defining contact information and a calendar note defining a date of an event. Smith, however, does disclose such information being stored (col. 10, lines 47-52; an electronic business card, or EBC, with contact information is stored). The motivation for this is to allow a user to take full advantage of caller ID and contacts functions (col. 2, lines 24-39). It would have been obvious to one skilled in the art to modify Deo to store an electronic business card in order to enhance caller ID and contacts functions as taught by Smith.

14. As to claim 8, Smith discloses a method comprising providing a display on the communication terminal allowing the user to discard one of more of the terminal operating characteristics from a received message after inspecting the

terminal operating characteristics included in the message (col. 10, lines 47-52; an option for storing an EBC is presented; if a user chooses not to store an EBC, the EBC is not saved and therefore discarded). Motivation for the Deo-Smith combination is given in the rejection to claim 4. It is noted that this feature further enhances the caller ID and contacts functions of a cellular phone/PDA/pager.

15. As to claim 46, Smith discloses a method comprising:

after receiving the message, providing a display on the communication terminal to notify a user of the receipt of the terminal operating characteristics (col. 10, lines 40-52; characteristics such as an icon are displayed, alerting a user to new characteristics received);

and receiving at the communication terminal user input indicating that the received terminal operating characteristics are to be saved on the communication terminal (col. 10, lines 47-52; an option for storing an EBC is presented; if a user chooses not to store an EBC, the EBC is not saved and therefore discarded).

Motivation for the Deo-Smith combination is given in the rejection to claim 4. It is noted that this feature further enhances the caller ID and contacts functions of a cellular phone/PDA/pager.

16. Claims 5, 9, 33, 34, 37-39, 49, 51, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deo in view of Park (U.S. Patent 7,158,805).

17. As to claim 5, Deo does not disclose that a group of terminal operating characteristics includes bookmark information defining the location of a server document associated with a user-selectable profile. Park, however, discloses an update system with information such as a home page address (col. 9, see

information item 10). It would have been obvious to one skilled in the art to modify Deo to include a server document address as received information as taught by Park as this is simply combining a new piece of information into the structure of Deo. The invention of Deo would still perform the same way, but would display and store a document address instead of a tone or visual. One skilled in the art would recognize this as keeping in the spirit of Deo's invention, while substituting one piece of data for another.

18. As to claim 9, Park discloses a method of creating an animation associated with a user-selectable profile with a plurality of individual pictures (col. 9, see information item 16 "moving picture"). See the rejection to claim 5 for the rationale of the Deo-Park combination. It is submitted that the same rationale applies to this claim, as an animation is just another piece of identifying data to be received.

19. As to claim 33, Deo discloses:

receiving at a communication terminal via a communication channel a message including a group of terminal operating characteristics (col. 2, lines 29-47; col. 10, lines 50-57; col. 13, lines 28-49; a sender specifies characteristics associated with how a terminal should alert a user to an incoming page);

identifying one or more user-selectable profiles stored on the communication terminal, wherein each of the user-selectable profiles corresponds to a set of user preferences and settings that control the operation of the communication terminal (col. 2, lines 29-47; col. 10, lines 50-57; col. 11,

lines 14-18; col. 11, line 64-col. 12, line 15; a user sets up profiles that determine how a terminal should operate when certain objects are received);

and receiving at the communication terminal user input indicating that the received group of terminal operating characteristics should be associated with one or more of the identified user-selectable profiles stored on the communication terminal (col. 8, lines 51-56; col. 11, lines 15-63; col. 14, lines 6-12; each folder is set up using user input wherein a user can set whether or not to associate received terminal operating characteristics with the device or not);

Deo does not disclose updating the terminal operating characteristics of the one or more user-selectable profiles to correspond to the received group of terminal operating characteristics. Rather, Deo has preset user characteristics that are set to allow or disallow remotely sent characteristics to be used, but does not allow for *storing a change* in the actual user profile. Park, however, discloses updating of contact information (col. 3, line 47-col. 4, line 3; col. 4, lines 13-29; information such as office email address and phone number is stored), which can read on updating the operating characteristics (phone numbers to be dialed, etc.) of a profile. The motivation for updating automatically is to take away the burden on a user to update the information himself (col. 1, lines 41-49). It would have been obvious to one skilled in the art to modify Deo to automatically update in order to reduce burden on a user as taught by Park.

20. As to claim 34, see the rejection to claim 2.
21. As to claim 37, see the rejection to claim 5.
22. As to claim 38, see the rejection to claim 6.

23. As to claim 39, see the rejection to claim 7.
24. As to claim 49, see the rejections to claims 1 and 33.
25. As to claim 51, see the rejection to claim 47.
26. As to claim 53, see the rejection to claim 2.
27. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deo in view of Park and further in view of Tran (U.S. Publication 2022/0069220).
28. As to claim 10, neither Deo nor Park discloses producing a screen saver from an animation upon selection of a user-selectable profile. Tran, however, discloses a mobile terminal (p. 5, section 0060) that downloads news clips and animates them as a news ticker to be used when the mobile terminal is inactive, thus acting as a screen saver (p. 17, section 0142). It would have been obvious to one skilled in the art to modify Deo and Park to display a screen saver of received information as taught by Tran as this is simply combining pieces of data into an animation as is known in the art. The invention of Deo would still perform the same way, but would use icons or pictures in succession to create a screen saver instead of just displaying a single flashing indicator. One skilled in the art would recognize this as keeping in the spirit of Deo's invention, while substituting one piece of data for another.
29. Claims 36, 48, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deo in view of Park as applied to claim 33 above, and further in view of Smith.
30. As to claim 36, see the rejection to claim 4.

31. As to claim 48, see the rejection to claim 46. Neither Deo nor Smith discloses that profiles are to be updated, but Park does disclose this as stated in the rejection to claim 33.
32. As to claim 50, see the rejection to claim 46.
33. As to claim 52, see the rejection to claim 8.

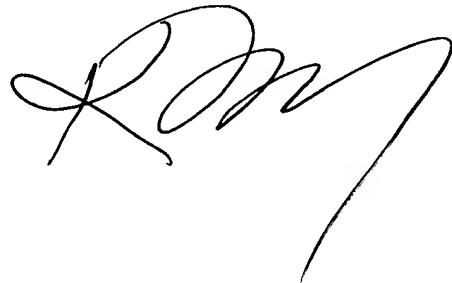
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Richer whose telephone number is (571) 272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMR  
1/28/08



KEE M. TUNG  
SUPERVISORY PATENT EXAMINER